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EXAMINER

MURDOUGH, JOSHUA A

ART UNIT	PAPER NUMBER
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3621

NOTIFICATION DATE	DELIVERY MODE
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02/20/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/691,970	Applicant(s) BLUMENFELD ET AL.	
	Examiner JOSHUA MURDOUGH	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination (“RCE”) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 20 November 2008 has been entered.

Acknowledgements

2. This action is responsive to Applicants above noted RCE submission.
3. Claims 1-16 and 18-33 are pending and have been examined.

Drawings

4. The drawings are objected to under 37 C.F.R. §1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following elements must be shown or the features canceled from the claims:

- a. “a permissions engine” in at least claim 1;
- b. “a first configuration module” in at least claim 20;
- c. “a content module” in at least claim 20;
- d. “a second configuration module” in at least claim 20;
- e. “a rule base availability module” in at least claim 20;
- f. “a profiling module” in at least claim 20;

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- g. “a priority identification module” in at least claim 20;
- h. “an analysis module” in at least claim 20;
- i. “an accounting module” in at least claim 25;

No new matter should be entered.

5. Corrected drawing sheets in compliance with 37 C.F.R. §1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 C.F.R. §1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. §1.75(d)(1), MPEP § 2181(II), and MPEP § 608.01(o). Correction of the following is required:

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- j. “a permissions engine” in at least claim 1;
- k. “a first configuration module” in at least claim 20;
- l. “a content module” in at least claim 20;
- m. “a second configuration module” in at least claim 20;
- n. “a rule base availability module” in at least claim 20;
- o. “a profiling module” in at least claim 20;
- p. “a priority identification module” in at least claim 20;
- q. “an analysis module” in at least claim 20;
- r. “an accounting module” in at least claim 25;
- s. “means for configuring a media player to access a medium associated with the content selection” in claim 32;
- t. “means for accessing a medium associated with the content selection” in claim 32;
- u. “means for configuring the media player to access a permissions engine” in claim 32;
- v. “means for checking availability of the host rule base in the multitiered rule base” in claim 32;
- w. “means for checking availability of the media player rule base in the multitiered rule base” in claim 32;
- x. “means for checking availability of the medium rule base in the multitiered rule base” in claim 32;
- y. “means for identifying a profile associated with the medium” in claim 32;

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- z. “means for identifying priorities for rule bases within the multitiered rule base” in claim 32;
- aa. “means for using the profile to analyze a content request with the multitiered rule base” in claim 32; and
- bb. “means for using the permissions engine in the media player to enable access to the content selection” in claim 32.

Claim Rejections - 35 USC § 112 1st Paragraph

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-16 and 18-33 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

9. In claim 1, Applicants recite, “a permissions engine.” The original disclosure does not include any “engine.” Moreover, the closest thing the Examiner was able to find was a “permissions data store **442**.” However, an engine requires execution of commands, while a “data store” just holds data.

10. In claim 1, Applicants recite, “checking availability of the host rule base in the multitiered rule base and, if the host rule base is available, accessing the host rule base.” In

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regards to this limitation, the closest disclosure the Examiner could find is, “using the media player rule base if the host rule base is unavailable” (Specification, Page 2, Lines 17-18).

However, this description is to using another rule base if the host rule base is not available.

While this does teach the checking for the availability, it does not teach what is to be done if it is available.

11. In claim 1, Applicants recite, “checking availability of the media player rule base in the multitiered rule base and, if the media player rule base is available, accessing the media player rule base.” In regards to this limitation, the closest disclosure the Examiner could find is, “using the medium rule base if the media player rule base is unavailable” (Specification, Page 2, Line 18). However, this description is to using another rule base if the media player rule base is not available. While this does teach the checking for the availability, it does not teach what is to be done if it is available.

12. In claim 1, Applicants recite, “checking availability of the medium rule base in the multitiered rule base and, if the medium rule base is available, accessing the medium rule base.” In regards to this limitation, the closest disclosure the Examiner could find is, “using the medium rule base if the media player rule base is unavailable” (Specification, Page 2, Line 18). This, however, fails to disclose the check for the availability of the medium rule base.

13. Each of the other independent claims (20, 32, and 33) recites similar limitations. Therefore, these claims are also rejected under the same rationale.

Claim Rejections - 35 USC § 112 2nd Paragraph

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. Claim 32 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

16. A patent applicant who employs means-plus-function language must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112. To avoid purely functional claiming in cases involving computer-implemented inventions, we have consistently required that the structure disclosed in the specification be more than simply a general purpose computer or microprocessor. Because general purpose computers can be programmed to perform very different tasks in very different ways, simply disclosing a computer as the structure designated to perform a particular function does not limit the scope of the claim to the corresponding structure, material, or acts that perform the function, as required by section 112 paragraph 6. Thus, in a means-plus-function claim in which the disclosed structure is a computer, or microprocessor, programmed to carry out an algorithm, the disclosed structure is not the general purpose computer, but rather the special purpose computer programmed to perform the disclosed algorithm. Consequently, a means-plus-function claim element for which the only disclosed structure is a general purpose computer is invalid if the specification fails to disclose an algorithm for performing the claimed function.

17. The Examiner has carefully reviewed the original specification and is unable to clearly link and associate the corresponding structure for following means-plus-function claim elements:

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- cc. “means for configuring a media player to access a medium associated with the content selection” in claim 32;
 - dd. “means for accessing a medium associated with the content selection” in claim 32;
 - ee. “means for configuring the media player to access a permissions engine” in claim 32;
 - ff. “means for checking availability of the host rule base in the multitiered rule base” in claim 32;
 - gg. “means for checking availability of the media player rule base in the multitiered rule base” in claim 32;
 - hh. “means for checking availability of the medium rule base in the multitiered rule base” in claim 32;
 - ii. “means for identifying a profile associated with the medium” in claim 32;
 - jj. “means for identifying priorities for rule bases within the multitiered rule base” in claim 32;
 - kk. “means for using the profile to analyze a content request with the multitiered rule base” in claim 32; and
 - ll. “means for using the permissions engine in the media player to enable access to the content selection” in claim 32.
18. As noted above, these limitations are rejected as being indefinite for failing to particularly point out and distinctly claim the invention. The structure cannot be determined. Therefore, one

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of ordinary skill in the art would be unable to know what is needed to infringe on the claim if it were to be allowed.

Claim Rejections - 35 USC § 101

19. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

20. Claims 20-32 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

21. Claims 20-31 are considered to be directed to software. Software per se is non-statutory subject matter. These claims recite various “modules” which perform different functions. There is no structure recited in the claims for these modules. The Examiner could not find a lexicographic definition for “module” in Applicants' specification. Upon review of the specification, the Examiner could not find the word “module.” Therefore, the Examiner has interpreted the word module under the broadest reasonable interpretation to be software. Support for this interpretation can be found in the definition for “module” provided below.

22. Claim 32 consists of means-plus-function limitations where the corresponding structure cannot be determined. As the proper interpretation under 35 U.S.C. 112 6th paragraph is impossible, the Examiner has been forced to use the broadest reasonable interpretation. Under this interpretation, each of the means could be software. As noted above, software per se is non-statutory.

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Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 1-16 and 18-33, as understood by the Examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirota (6,606,707) in view of Ginter (US 5,892,900).

25. As per claims 1-5, 8, 15, 16, 20, 23, 32, and 33, Hirota teaches:

A method of regulating access to a content selection comprising:

- i. configuring a media player (Figure 2) to access a medium **109** associated with the content selection
- ii. accessing the medium associated with a content selection and identifying a profile (e.g. reference or serial number) associated with the medium (figures 5 and 9; column 10, lines 31-42; column 15, lines 3-15).
- iii. configuring the media player to access a permissions engine **302** that interfaces with a multitiered rule base that is configured to store a medium rule base, a media player rule base, and a host rule base, wherein the medium rule base is based on content permissions associated with the medium (column/line 16/63-17/10), the media player rule base is based on content permissions associated with the media player (column 15, lines 10-15 and 55-62), and the host rule base is based on content permissions associated with the host (column 15, lines 15-20)

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- iv. checking availability of the host rule base in the multitiered rule base and, if the host rule base is available, accessing the host rule base (column 15, lines 15-20);
- v. checking availability of the media player rule base in the multitiered rule base and, if the media player rule base is available, accessing the media player rule base (column 15, lines 10-15 and 55-62);
- vi. checking availability of the medium rule base in the multitiered rule base and, if the medium rule base is available, accessing, the medium rule base (column/line 16/63-17/10);
- vii. using the profile to analyze a content request with the multi-tiered rule base (transparent to the user) (column 15, lines 10-15 and 55-62-e.g. first tier, column 15, lines 15-20-e.g. second tier; column/line 16/63-17/10-e.g. third tier)
- viii. using the permissions engine in the media player to enable access to the content selection in accordance with the analysis (column 15, lines 25-62; column 17, lines 11-46)
- ix. identifying a user accessing the content (column 8, lines 9-34)
- x. analyzing the request by polling a first rule base first then a second rule base (column 15, lines 10-20 and 55-62; column/line 16/63-17/10)
- xi. determines an access right without challenging a user (column/line 16/63-17/10)

26. Hirota does not expressly teach:

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- xii. using the profile to analyze a content request with the multi-tiered rule base is based on the identified priorities of rule bases in multitiered rule base.

27. However, Ginter teaches groups of controls being given priorities (column 30, lines 31-35). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Hirota to include the priorities as taught by Ginter, in order to comply with laws (Ginter, column 30, lines 27-31).

28. Claims 9-14, 18, 19, 24-31, recite steps that do not necessarily have to be performed. However, it has been held that language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP 2106 II C). Conditional elements and/or intended use elements are present in these claims in a manner where the steps are not required to be performed. Applicants are encouraged to make these positive limitations. Positively reciting these limitations would move the application closer to allowance.

29. Claims 6-7, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirota in view of Ginter as cited above, further in view of another embodiment of Ginter.

30. As per claims 6-7, 21 and 22, Hirota further teaches a user purchasing and downloading content from a remote source (column 8, lines 1-20) and a user requesting the content subsequently stored on a medium (figure 9). The Hirota/Ginter combination above does not specifically recite reporting the content request to a reporting agent. Ginter teaches reporting to a reporting agent how content is used (column 318, lines 30-58; column 319, lines 5-14) and aggregating multiple requests associated with a media player and reporting the multiple requests

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to a host (column 318, lines 1-5 and 12-30). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Hirota et al. and Ginter et al. in order to allow the content provider of Hirota et al. ('707, column 8, lines 1-20) to better market their content to users ('900, column 318, lines 7-30).

Claim Interpretations

31. In regards to optional and conditional elements, the Examiner has not ignored any limitation. The Examiner has considered every word of every claim. However, the Examiner's position is that limitations which are based on a condition (*e.g.* in claim 1, "if the host rule base is available...") allow for anticipation where the condition is not satisfied (the host rule base is not available). Where the condition is not satisfied and an applicant has not provided for this, the Examiner must interpret that nothing is done. Words typically associated with conditional elements include: if, when, and upon. These words are provided for Applicants' convenience, but should not be taken as a complete list or an absolute rule. As is true with most claim interpretation, context is important. Each limitation must be considered to determine the appropriate weight to be given.

32. Statements of intended use also fail to require the steps to be performed. Again, these limitations have been considered. However, when a step is shown as being possible or desirable but not expressly performed (*e.g.* in claim 10, "enabling the user to engage in the content request by charging the content request against a user account"), the step (the user engaging in the content request) does not need to be performed in order to anticipate a claim. A showing that the reference could not perform the step may be sufficient to overcome a rejection based on the

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reference. However, the fact that the reference may not show the step as being performed would not overcome the reference.

33. For both of the preceding issues, a positive recitation of the steps would preclude this type of interpretation. Therefore, where Applicants desire these limitations to be given full patentable weight, they should amend to positively recite the limitations.

34. After examining all of the claims, it is the Examiner's position that only claim 32 invokes 35 U.S.C. 112 6th paragraph. Claim 32 is the only claim which recites "means for" or "step for" to indicate this section should be invoked.

35. The Examiner, upon review of the specification, has been unable to find any lexicographic definitions. If Applicants feel this is in err, they should point out the potential lexicographic definitions in their response.

Definitions

36. The Examiner hereby adopts the following definitions under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), the Examiner points to these other sources to support his interpretation of the claims.¹ Additionally, these definitions are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

¹ While most definition(s) are cited because these terms are found in the claims, the Examiner may have provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

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Available: “3 : present or ready for immediate use.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Configure: “to set up for operation esp. in a particular way.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield, M.A. 1986.

Enable: “1 a : to provide with the means or opportunity... b : to make possible, practical or easy” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

If: “1 a : in the event that” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield, M.A., 1986.

Module: “1. In programming, a collection of routines and data structures that performs a particular task or implements a particular abstract data type.” Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

To: “2a -- used as a function word to indicate purpose, intention, tendency, result, or end.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Response to Arguments

37. Applicant's arguments filed 20 November 2008 have been fully considered but they are not persuasive.

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38. Applicants argue:

39. “Hirota fails to teach a medium rule base and a host rule base. Hirota also does not teach a multitiered rule base that is configured to store a medium rule base, a media player rule base, and a host rule base” (Remarks, Page 10, Paragraph 4).

40. Examiner's response:

41. The argued limitations are not positively recited. Claim 1 recites, “a multitiered rule base that is configured to store a medium rule base, a media player rule base, and a host rule base.”

The phrase “configured to store” shows the intended use of the invention.

42. Moreover, these elements are shown by Hirota as follows:

mm. Medium rule base - (column/line 16/63-17/10);

nn. Media player rule base - (column 15, lines 10-15 and 55-62); and

oo. Host rule base - (column 15, lines 15-20).

43. Applicants argue:

44. “Applicants submit that the master key 323 is not a rule base of any form” (Remarks, Page 10, Paragraph 5).

45. Examiner's response:

46. The Examiner agrees that a key is not a rule base. However, the requirement that the key be in the user’s possession prior to access is a rule. Applicants make similar arguments to the other rule bases and the Examiner relies on a similar interpretation for each of them.

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47. Applicants argue:

48. “In contrast, the media player rule base is not a simple encryption/decryption key, but rather a set of rules associated with content permissions for the media player. For instance, the application provides one example of a rule base on page 23, line 25- page 24, line 5:...”

(Remarks, Page 10, Paragraph 6).

49. Examiner's response:

50. As to the key being a rule, the Examiner has already addressed this issue.

51. Applicants appear to be attempting to bring the specification into the claims. There are only two situations where this is proper: Means-plus-function limitations and lexicography.

Claim 1, to which this argument is addressed, does not contain any means-plus-function limitations. The Examiner has reviewed the specification again. No lexicographic definitions were found. Therefore, the Examiner's position is that the specification should not be read into the claims. Applicants make similar arguments to the other rule bases and the Examiner relies on a similar interpretation for each of them.

52. However, if a reviewing body finds that the cited section of the specification should be used in interpreting the claim, the Examiner's interpretation would still be proper. The Examiner has relied on the requirement that the key be in the user's possession prior to access as evidence of the rule base. The quoted section of the specification states, "[t]he media player rule base may provide selective access to the media player." The selective access is based on possession of the key.

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53. Applicants argue:

54. “Hirota does not teach or suggest a multitiered rule base that is configured to store a medium rule base, a media player rule base, and a host rule base” (Remarks, Page 11, Paragraph 4).

55. Examiner's response:

56. The Examiner has provided citations to each of the rule bases in the section where they are described in the claim. As the multitiered rule base contains a medium rule base, a media player rule base, and a host rule base it is the Examiner's position that a showing of each of these elements is a showing of the multitiered rule base.

57. Applicants argue:

58. “In this case, Applicants' claim language should not be considered optional, as it does not include statements of intended use or field of use, "adapted to" or "adapted for" clauses, "wherein" clauses, or "whereby" clauses, nor does it simply express the intended result of a process step positively recited” (Remarks, Page 12, Paragraph 6).

59. Examiner's response:

60. The Examiner has better explained why some of the claim limitations are statements of intended use in the “Claim Interpretations” section above.

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61. Applicants argue:

62. “[O]ne of the steps is conditional, and not optional, the conditional step must be considered part of the whole claimed method” (Remarks, Page 13, partial paragraph).

63. Examiner’s response:

64. The Examiner has considered the conditional steps. Applicants’ reliance on MPEP § 2111.04 to show that conditional elements should be given weight, improperly construes the section. The basic premise has not been satisfied. The claim limitation being argued is not a “whereby” clause. Also, this section is not intended to describe conditional elements. The condition referred to is “whereby a trade network supports users at said plurality of RUTs who are each guided by said IAPI to select an economic activity, to identify that index topic that corresponds to said activity, to enter that topic board dedicated to said topic, and who are collectively able to concurrently engage in interactive data messaging on said topic boards” (*Hoffer v. Microsoft Corp.* 74 USPQ2d 1481, 1483 (Fed. Cir. 2005)). This is clearly not a conditional limitation in the same sense as “if (A), then (B).”

Conclusion

65. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

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66. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

67. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621